

## REMARKS

Claims 1-3, 8, 9, 24, and 31-33 have been amended. Claims 34-45 have been added. Support for the amendments and new claims is found in the specification, drawings and claims as originally filed. Accordingly, no new matter has been added. Claims 4-7, 10-23, and 25-30 have been cancelled without prejudice or disclaimer. Claims 1-3, 8, 9, 24, and 31-45 are pending.

Applicants thank Examiner Taylor and Examiner Hirl for the courtesies extended during the telephone interview on September 22, 2009. During the interview, distinctions between the Application and the Zigmond, Knee and Ficco references were discussed. Agreement was reached that the claims, as currently amended, appear to be distinguishable over the Zigmond, Knee and Ficco references.

### **Claims 1-3, 8, 9, 24, and 31 are Allowable**

The Office has rejected claims 1-3, 7-9, 11, 24-29 and 31, under 35 U.S.C. §103(a), as being unpatentable over U.S. Patent No. 6,698,020 (“Zigmond”) in view of U.S. Patent Application Publication No. 2002/0095676 (“Knee”) and U.S. Patent Application Publication No. 2005/0166224 (“Ficco”). Claims 7, 11, and 25-30 have been cancelled without prejudice or disclaimer. Applicants respectfully traverse the remaining rejections.

### Claims 1-3, 8 and 9

The cited portions of Zigmond, Knee and Ficco, individually or in combination, do not disclose or suggest the specific combination of claim 1. For example, the cited portions of Zigmond, Knee and Ficco fail to disclose or suggest receiving a signal at the media delivery device authorizing insertion of an advertisement into the media delivery stream during broadcast media programming, where the signal includes selection data specifying an allowable type of the advertisement that is authorized to be inserted into the media delivery stream, as in claim 1.

In contrast to claim 1, Zigmond teaches ad selection criteria that are stored at an ad insertion device. Zigmond, col. 11, lines 31-32. The ad selection criteria are used to select appropriate advertisements to be displayed to a viewer. Zigmond, col. 11, lines 31-35. An appropriate advertisement refers to an advertisement that is specifically associated with characteristics of the viewer of household. Zigmond, col. 4, 29-32. Thus, the cited portions of

Zigmond fail to disclose or suggest identifying a set of allowable advertisements from among the plurality of targeted advertisements, as in claim 1. Rather, Zigmond discloses selecting an advertisement that is specifically associated with characteristics of a viewer of a household. Zigmond, col. 4, 29-32.

The ad selection criteria of Zigmond include advertisement parameters and ad selection rules. Zigmond, col. 11, lines 35-36. The advertisement parameters include a description of contents of the advertisement, codes that identify the subject matter of the advertisement, or other mechanisms for characterizing the advertisement so that the advertisement may be display to an appropriate segment of the viewing population. Zigmond, col. 11, lines 37-42. Thus, the advertisement parameters are not disclosed as specifying an allowable type of advertisement, as in claim 1. The ad selection rules are used to match the viewer and system information of a storage location or programming content information of an electronic program database with the advertisement parameters. Zigmond, col. 11, lines 42-47. Thus, the ad selection rules are not disclosed as specifying an allowable type of advertisement, as in claim 1. Further, initial ad selection rules and any updated versions of the ad selection rules are delivered to the ad insertion device via an advertisement delivery channel or by any available delivery channel that is independent of the advertisement delivery stream and the video programming feed. Zigmond, col. 11, line 66 though col. 12, line 3. Thus, Zigmond specifically indicates that the ad selection rules are delivered by a channel that is independent of the video programming feed. Accordingly, the cited portions of Zigmond fail to disclose or suggest receiving a signal at the media delivery device authorizing insertion of an advertisement into the media delivery stream during broadcast media programming, where the signal includes selection data specifying an allowable type of the advertisement that is authorized to be inserted into the media delivery stream, as in claim 1.

In contrast to claim 1, Knee teaches distributing advertising information over an out-of-band channel or using one or more digital channels. Knee, paragraph [0023]. Knee teaches comparing values of relevant demographic categories with preselected values associated with each advertisement to determine whether an advertisement is to be displayed. Knee, paragraph [0028]. The cited portions of Knee fail to disclose or suggest receiving a signal at the media delivery device authorizing insertion of an advertisement into the media delivery stream during broadcast media programming, where the signal includes selection data specifying an allowable

type of the advertisement that is authorized to be inserted into the media delivery stream, as in claim 1. Rather, Knee discloses selecting an advertisement for display if a preselected value of a demographic category for the advertisement is met by a value of a demographic category for the user (Knee, paragraph [0046]) or using a best fit approach to select from among many advertisements transmitted to a set-top box (Knee, paragraph [0047]). Thus, the cited portions of Knee fail to disclose selection data specifying an allowable type of advertisement, as in claim 1, and fail to disclose or suggest receiving selection data via a signal at the media delivery device authorizing insertion of an advertisement into the media delivery stream during broadcast media programming, as in claim 1.

In contrast to claim 1, Ficco teaches an ad selection factor generator that supplies an ad selection factor to a broadcast advertisement adapter to control ad adaptation. Ficco, paragraph [0024]. For example, the ad selection factor may be a number that designates a particular ad segment stored in memory, or the ad selection factor may include multiple components each of which correspond to a particular category of consumers and has a numerical value rating the recipient within each category. Ficco, paragraph [0043]. The ad selection factor is not disclosed as specifying an allowable type of advertisement, as in claim 1. Further, Ficco teaches a synchronization detector connected to a broadcast feed that supplies a synchronization control output. Ficco, paragraph [0032]. Ficco teaches that after selection of a particular ad for display, a synchronization signal may be received and used to synchronize display of the selected advertisement with the broadcast content. Ficco, paragraph [0045]. The cited portions of Ficco fail to disclose or suggest receiving a signal at the media delivery device authorizing insertion of an advertisement into the media delivery stream during broadcast media programming, where the signal includes selection data specifying an allowable type of the advertisement that is authorized to be inserted into the media delivery stream, as in claim 1.

Additionally, the cited portions of Zigmond, Knee and Ficco fail to disclose or suggest identifying a set of allowable advertisements from among the plurality of targeted advertisements by searching the data representing the set of characteristics associated with each of the plurality of targeted advertisements using the selection data, where the set of allowable advertisements includes advertisements that are of the allowable type, as in claim 1.

In contrast to claim 1, Zigmond teaches storing a plurality of advertisements from an advertisement source by a home entertainment system. Zigmond, col. 4, lines 17-21. Zigmond

also teaches ad selection criteria are used to select an appropriate advertisement for display. Zigmond, col. 4, lines 25-29. An appropriate advertisement refers to an advertisement that is specifically associated with characteristics of the viewer of household. Zigmond, col. 4, 29-32. The cited portions of Zigmond fail to disclose or suggest identifying a set of allowable advertisements from among the plurality of targeted advertisements, as in claim 1. Additionally, the cited portions of Zigmond fail to disclose that a set of allowable advertisements includes advertisements that are of an allowable type, as in claim 1. Rather, Zigmond discloses selecting an advertisement that is specifically associated with characteristics of a viewer of a household. Zigmond, col. 4, 29-32.

In contrast to claim 1, Knee teaches displaying an advertisement when a preselected value of a demographic category for the advertisement is met by a value of a demographic category for the user (Knee, paragraph [0046]) or using a best fit approach to select from among many advertisements transmitted to a set-top box (Knee, paragraph [0047]). However, the cited portions of Knee fail to disclose or suggest identifying a set of allowable advertisements from among the plurality of targeted advertisements, as in claim 1. Additionally, the cited portions of Knee fail to disclose or suggest that a set of allowable advertisements includes advertisements that are of an allowable type, as in claim 1.

In contrast to claim 1, Ficco teaches that an ad selection factor may be a number that designates a particular ad segment stored in memory, or the ad selection factor may include multiple components each of which correspond to a particular category of consumers and has a numerical value rating the recipient within each category. Ficco, paragraph [0043]. However, the cited portions of Ficco fail to disclose or suggest identifying a set of allowable advertisements from among the plurality of targeted advertisements, as in claim 1. Additionally, the cited portions of Ficco fail to disclose that a set of allowable advertisements includes advertisements that are of an allowable type, as in claim 1.

Additionally, the cited portions of Zigmond, Knee and Ficco fail to disclose or suggest selecting a particular advertisement from the set of allowable advertisements to be inserted into the media delivery stream by applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements and comparing the at least one weighted characteristic of each of the allowable advertisements, where the at least one weighted

characteristic includes past usage of a targeted advertisement by the media delivery device, as in claim 1.

In contrast to claim 1, Zigmond teaches storing a plurality of advertisements from an advertisement source by a home entertainment system. Zigmond, col. 4, lines 17-21. Zigmond also teaches ad selection criteria are used to select an appropriate advertisement for display. Zigmond, col. 4, lines 25-29. An appropriate advertisement refers to an advertisement that is specifically associated with characteristics of the viewer of household. Zigmond, col. 4, 29-32. Thus, the cited portions of Zigmond fail to disclose or suggest a set of allowable advertisements or applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements, as in claim 1. Additionally, as acknowledged in the Final Office Action, “Zigmond, however, is unclear with respect to the particular usage of ‘weighting’ in selecting between multiple advertisements that match a given category.” Final Office Action, p. 3. Applicants respectfully note that, as described above, the cited portions of Zigmond fail to disclose a set of allowable advertisements, and, as acknowledged by the Final Office Action, fail to disclose using weighting to select an advertisement. Accordingly, the cited portions of Zigmond fail to disclose or suggest comparing the at least one weighted characteristic of each of the allowable advertisements, where the at least one weighted characteristic includes past usage of a targeted advertisement by the media delivery device, as in claim 1.

The Final Office Action asserts that Knee discloses “when the search produces more than one stored advertisement satisfying the at least one required characteristic, selecting the stored advertisement to be inserted by applying a weighting to at least one characteristic of each of the stored advertisements and comparing at least one weighted characteristic of each stored advertisement.” Final Office Action, p. 4. Applicants respectfully disagree. Rather, Knee discloses weighting in the following contexts:

1. “The method of claim 5, wherein determining user values for demographic categories further comprises providing to said user input a weight value indicative of the effect said user input has on the user values for the demographic categories.” Knee, claim 8.
2. “FIG. 3 is a table showing four exemplary user inputs and their predetermined weight values to be utilized by the user television equipment of FIG. 1 to

determine values for demographic categories in accordance with the present invention.” Knee, paragraph [0014].

3. “FIG. 4 is a table showing exemplary demographic categories and preselected value and weight factor for each of the channels to be utilized by the user television equipment of FIG. 1 to determine values for demographic categories in accordance with the present invention.” Knee, paragraph [0015].
4. “User inputs received by the user input receiver 62 have predetermined weight values (WV) associated with them. In FIG. 3, there are shown four such exemplary user inputs with corresponding weight values (the selection of value range 0-1 for the weight values is not significant in and of itself): recording a program with weight value of 1.0; setting a reminder with weight value of 0.5; tuning to a program and watching for at least five minutes with weight value of 0.5; and retrieving information about a program with weight value of 0.25. The weight values are indicative of the effect the corresponding user inputs have on the values of the demographic categories. The greater the weight value of a user input, the greater the values of the demographic categories associated with such user input. Therefore, according to the example of FIG. 3, a user who records a program will have greater values for the pertinent demographic categories than she will retrieving information about the same program. This is because the act of recording a program generally indicates a greater level of interest in the program than just retrieving information for the program.” Knee, paragraph [0035].
5. “Each channel or program having a preselected value for an associated demographic category may have a predetermined weight factor (WF). For example, the ESPN channel may have a weight factor of 2 for the sports fan demographic category as shown in FIG. 4. The weight factor represents the significance of the channel or program relative to the period for the demographic category.

For each user input involving a relevant channel or program, the value for a demographic category is as follows: 
$$V_{sub.d(i)} = (WV * WF * PV) + ((P - (WV * WF)) * V_{sub.d(i-1)})P$$

$V_{sub.d(i-1)}$  is the previous value for the demographic category and  $i$  represents

the number of user inputs. Where  $i=1$  (i.e., the first user input involving a relevant channel or program associated with the demographic category), the  $V.sub.d(i-1)$  used above is the default value for the demographic category. It should be noted that any other equation or function which properly reflects the user's interests based on user inputs into the system can be used to determine values for demographic categories in accordance with the present invention.” Knee, paragraphs [0039]-[0041].

In each quote above, Knee teaches applying weighting to a factor associated with a user or with a channel, not to a characteristic of the advertisement. For example, quote #1 above discloses determining user values for demographic categories by providing a weight value to user input, where the weight value indicates an effect the user input has on the user values for the demographic categories. Thus, the cited portion of Knee discloses using weighting to determine a demographic category of a user. The cited portion of Knee fails to disclose or suggest applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements, as in claim 1.

Quote #2 relates to FIG. 3 and indicates that FIG. 3 shows predetermined weight values of user inputs. Quote #2 further indicates that these values are used to determine demographic categories. Thus, the cited portion of Knee discloses using weighting to determine a demographic categories of users. The cited portion of Knee fails to disclose or suggest applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements, as in claim 1.

Quote #3 relates to FIG. 4 and indicates that FIG. 4 shows demographic categories and preselected value and weight factor for each of the channels to be utilized by the user television equipment. Thus, the cited portion of Knee discloses weight factors for channels. The cited portion of Knee fails to disclose or suggest applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements, as in claim 1.

Quote #4 above discloses that user inputs have predetermined weight values associated with them. The weight values are disclosed to be indicative of the effect the corresponding user inputs have on the values of the demographic categories associated with a user. The cited portion of Knee fails to disclose or suggest applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements, as in claim 1.

Quote #5 above discloses that each channel or program with a preselected value for an associated demographic category may have a predetermined weight factor. The weight factor represents the significance of the channel or program relative to the period for the demographic category. The cited portion of Knee fails to disclose or suggest applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements, as in claim 1.

Quotes 1-5 above include all of the references in Knee found using a simple text search of the application for the term “weight.” Thus, the cited portions of Knee fail to disclose or suggest applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements. Rather, Knee discloses weight factors related to demographic categories of users and to demographic categories of channels or programs.

The Final Office Action further asserts that Knee, at least via the well-known transitivity principle, teaches comparing two advertisements together. Final Office Action, p. 3. Applicants respectfully disagree. Rather, Knee discloses that advertisements are associated with preselected values. Knee, paragraph [0029]. Knee also discloses values of demographic categories for a user. Knee, paragraph [0029]. Values of demographic categories of a user are compared to preselected values for an advertisement to determine whether to display an advertisement to the user. Knee, paragraph [0032]. Knee gives two examples of this process. In the first example, preselected values of an advertisement #1 are compared to values of demographic categories of a user. Knee, paragraph [0032]. The values of the demographic categories of the user fail to satisfy the preselected values of the advertisement #1; accordingly, the advertisement #1 is not shown to the user. Knee, paragraph [0032]. In the second example, preselected values of an advertisement #2 are compared to values of demographic categories of the user. Knee, paragraph [0033]. The values of the demographic categories of the user satisfy the preselected values of the advertisement #2. Thus, the advertisement #2 is shown to the user. Knee, paragraph [0033]. The two advertisements are not compared to each other. Rather, a threshold set of values associated with each advertisement (i.e., the preselected values) is compared to values of demographic categories of a user.

The Final Office Action indicates that Knee “compares the values of ad 1 to a benchmark (e.g. a profile) and then compares the values of ad 2 to a benchmark and the benchmark being the



same set of values for the comparison allows the user of transitivity to compare the values of ad 1 to the values of ad 2 together. So, if ad 1 = A and ad 2 = C and the benchmark = B, then if  $A > B$  and  $B > C$ , then  $A > C$ ....” Final Office Action, pp. 4-5. Applicants respectfully note that Knee does not teach comparing values to a benchmark, but rather comparing values to a threshold. That is, if  $A < B$  (as in the example of Knee, paragraph [0032]) then A fails to satisfy the threshold. Claim 1 recites applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements and comparing the at least one weighted characteristic of each of the allowable advertisements, where the at least one weighted characteristic includes past usage of a targeted advertisement by the media delivery device.” That is, claim 1 addresses comparing a set of advertisements where each of the advertisements satisfies the threshold (i.e., they are allowable advertisements). The cited portions of Knee do not disclose or suggest comparing a set of advertisements where each of the advertisements satisfies the threshold. Referring back to the example in the Final Office Action, if it is known that A satisfies B and that C satisfies B, this provides no information whatsoever regarding the relative values of A and C.

The Final Office Action asserts that Ficco discloses “comparing the ads on at least two classification elements (or weightings),” at paragraphs [0043]-[0045]. Final Office Action, p. 5. Applicants respectfully disagree. In contrast to claim 1, Ficco teaches that an ad selection factor may be a number that designates a particular ad segment stored in memory, or the ad selection factor may include multiple components each of which correspond to a particular category of consumers and has a numerical value rating the recipient within each category. Ficco, paragraph [0043]. Neither of the types of ad selection factors disclosed in paragraph [0043] of Ficco indicate that one ad is compared to another. Further, neither of the types of ad selection factors disclosed in paragraph [0043] of Ficco describe applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements and comparing the at least one weighted characteristic of each of the allowable advertisements, where the at least one weighted characteristic includes past usage of a targeted advertisement by the media delivery device, as in claim 1. Paragraph [0044] of Ficco discloses receiving an ad selection factor and selecting one or more ad segments. Thus, paragraph [0044] of Ficco fails to disclose applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements and comparing the at least one weighted

characteristic of each of the allowable advertisements, where the at least one weighted characteristic includes past usage of a targeted advertisement by the media delivery device, as in claim 1. Paragraph [0045] of Ficco discloses synchronizing a selected ad segment with the remainder of the broadcast content. Thus, paragraph [0044] of Ficco fails to disclose applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements and comparing the at least one weighted characteristic of each of the allowable advertisements, where the at least one weighted characteristic includes past usage of a targeted advertisement by the media delivery device, as in claim 1. Accordingly, the cited portions of Ficco fail to disclose or suggest applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements and comparing the at least one weighted characteristic of each of the allowable advertisements, where the at least one weighted characteristic includes past usage of a targeted advertisement by the media delivery device, as in claim 1.

Therefore, the cited portions of Zigmond, Knee and Ficco, individually or in combination, fail to disclose or suggest at least one element of claim 1. Hence, claim 1 is allowable. Claims 2, 3, 8, and 9 depend from claim 1. Accordingly, claims 2, 3, 8, and 9 are also allowable, at least by virtue of their dependence from claim 1.

#### Claims 24 and 31

The cited portions of Zigmond, Knee and Ficco, individually or in combination, do not disclose or suggest the specific combination of claim 24. For example, the cited portions of Zigmond, Knee and Ficco fail to disclose or suggest receiving a signal at the media delivery device authorizing insertion of an advertisement into a media delivery stream during broadcast media programming, where the signal is sent with the broadcast media programming, and where the signal includes selection data specifying an allowable type of the advertisement that is authorized to be inserted into the media delivery stream, as in claim 24.

In contrast to claim 24, Zigmond teaches ad selection criteria that are stored at an ad insertion device. Zigmond, col. 11, lines 31-32. The ad selection criteria are used to select appropriate advertisements to be displayed to a viewer. Zigmond, col. 11, lines 31-35. An appropriate advertisement refers to an advertisement that is specifically associated with characteristics of the viewer of household. Zigmond, col. 4, 29-32. Thus, the cited portions of

Zigmond fail to disclose or suggest identifying a set of allowable advertisements from among the plurality of targeted advertisements, as in claim 1. Rather, Zigmond discloses selecting an advertisement that is specifically associated with characteristics of a viewer of a household. Zigmond, col. 4, 29-32.

The ad selection criteria include advertisement parameters and ad selection rules. Zigmond, col. 11, lines 35-36. The advertisement parameters include a description of contents of the advertisement, codes that identify the subject matter of the advertisement, or other mechanisms for characterizing the advertisement so that the advertisement may be display to an appropriate segment of the viewing population. Zigmond, col. 11, lines 37-42. The advertisement parameters are not disclosed as specifying an allowable type of advertisement, as in claim 24. The ad selection rules are used to match the viewer and system information of a storage location or programming content information of an electronic program database with the advertisement parameters. Zigmond, col. 11, lines 42-47. Thus, the ad selection rules are not disclosed as specifying an allowable type of advertisement, as in claim 24. Further, initial ad selection rules and any updated versions of the ad selection rules are delivered to the ad insertion device via an advertisement delivery channel or by any available delivery channel that is independent of the advertisement delivery stream and the video programming feed. Zigmond, col. 11, line 66 through col. 12, line 3. Thus, Zigmond specifically indicates that the ad selection rules are delivered by a channel that is independent of the video programming feed. Accordingly, the cited portions of Zigmond fail to disclose or suggest receiving a signal at the media delivery device authorizing insertion of an advertisement into a media delivery stream during broadcast media programming, where the signal is sent with the broadcast media programming, and where the signal includes selection data specifying an allowable type of the advertisement that is authorized to be inserted into the media delivery stream, as in claim 24.

In contrast to claim 24, Knee teaches distributing advertising information over an out-of-band channel or using one or more digital channels. Knee, paragraph [0023]. Knee teaches comparing values of relevant demographic categories with preselected values associated with each advertisement to determine whether an advertisement is to be displayed. Knee, paragraph [0028]. The cited portions of Knee fail to disclose or suggest receiving a signal at the media delivery device authorizing insertion of an advertisement into a media delivery stream during broadcast media programming, where the signal is sent with the broadcast media programming,

and where the signal includes selection data specifying an allowable type of the advertisement that is authorized to be inserted into the media delivery stream, as in claim 24. Rather, Knee discloses displaying an advertisement when a preselected value of a demographic category for the advertisement is met by a value of a demographic category for the user (Knee, paragraph [0046]) or using a best fit approach to select from among many advertisements transmitted to a set-top box (Knee, paragraph [0047]). Thus, the cited portions of Knee fail to disclose selection data specifying an allowable type of advertisement, as in claim 24, and fail to disclose or suggest receiving the selection data via a signal at the media delivery device authorizing insertion of an advertisement into the media delivery stream during broadcast media programming, as in claim 24.

In contrast to claim 24, Ficco teaches an ad selection factor generator that supplies an ad selection factor to a broadcast advertisement adapter to control ad adaptation. Ficco, paragraph [0024]. For example, the ad selection factor may be a number that designates a particular ad segment stored in memory, or the ad selection factor may include multiple components each of which correspond to a particular category of consumers and has a numerical value rating the recipient within each category. Ficco, paragraph [0043]. The ad selection factor is not disclosed as specifying an allowable type of advertisement, as in claim 24. Further, Ficco teaches a synchronization detector connected to a broadcast feed that supplies a synchronization control output. Ficco, paragraph [0032]. Ficco teaches that after selection of a particular ad for display, a synchronization signal may be received and used to synchronize display of the selected advertisement with the broadcast content. Ficco, paragraph [0045]. The cited portions of Ficco fail to disclose or suggest receiving a signal at the media delivery device authorizing insertion of an advertisement into a media delivery stream during broadcast media programming, where the signal is sent with the broadcast media programming, and where the signal includes selection data specifying an allowable type of the advertisement that is authorized to be inserted into the media delivery stream, as in claim 24.

Additionally, the cited portions of Zigmond, Knee and Ficco fail to disclose or suggest identifying a set of allowable advertisements from among the plurality of targeted advertisements by searching the data representing the set of characteristics associated with each of the plurality of targeted advertisements using the selection data, wherein the set of allowable advertisements includes advertisements that are of the allowable type, as in claim 24.

In contrast to claim 24, Zigmond teaches storing a plurality of advertisements from an advertisement source by a home entertainment system. Zigmond, col. 4, lines 17-21. Zigmond also teaches that ad selection criteria are used to select an appropriate advertisement for display. Zigmond, col. 4, lines 25-29. An appropriate advertisement refers to an advertisement that is specifically associated with characteristics of the viewer of household. Zigmond, col. 4, 29-32. The cited portions of Zigmond fail to disclose or suggest identifying a set of allowable advertisements from among the plurality of targeted advertisements, as in claim 24. Additionally, the cited portions of Zigmond fail to disclose that a set of allowable advertisements includes advertisements that are of an allowable type, as in claim 24. Rather, Zigmond discloses selecting an advertisement that is specifically associated with characteristics of the viewer of household. Zigmond, col. 4, 29-32.

In contrast to claim 24, Knee teaches displaying an advertisement when a preselected value of a demographic category for the advertisement is met by a value of a demographic category for the user (Knee, paragraph [0046]) or using a best fit approach to select from among many advertisements transmitted to a set-top box (Knee, paragraph [0047]). However, the cited portions of Knee fail to disclose or suggest identifying a set of allowable advertisements from among the plurality of targeted advertisements, as in claim 24. Additionally, the cited portions of Knee fail to disclose that a set of allowable advertisements includes advertisements that are of an allowable type, as in claim 24.

In contrast to claim 24, Ficco teaches that an ad selection factor may be a number that designates a particular ad segment stored in memory, or the ad selection factor may include multiple components each of which correspond to a particular category of consumers and has a numerical value rating the recipient within each category. Ficco, paragraph [0043]. However, the cited portions of Ficco fail to disclose or suggest identifying a set of allowable advertisements from among the plurality of targeted advertisements, as in claim 24. Additionally, the cited portions of Ficco fail to disclose that a set of allowable advertisements includes advertisements that are of an allowable type, as in claim 24.

Additionally, the cited portions of Zigmond, Knee and Ficco fail to disclose or suggest selecting a particular advertisement from the set of allowable advertisements to be inserted into the media delivery stream by applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements and comparing weighted

characteristics of each of the allowable advertisements, where the weighted characteristics include past usage of a targeted advertisement by the media delivery device, as in claim 24.

In contrast to claim 1, Zigmond teaches storing a plurality of advertisements from an advertisement source by a home entertainment system. Zigmond, col. 4, lines 17-21. Zigmond also teaches ad selection criteria are used to select an appropriate advertisement for display. Zigmond, col. 4, lines 25-29. An appropriate advertisement refers to an advertisement that is specifically associated with characteristics of the viewer of household. Zigmond, col. 4, 29-32. Thus, the cited portions of Zigmond fail to disclose or suggest a set of allowable advertisements or applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements, as in claim 24. Additionally, as acknowledged in the Final Office Action, “Zigmond, however, is unclear with respect to the particular usage of ‘weighting’ in selecting between multiple advertisements that match a given category.” Accordingly, the cited portions of Zigmond fail to disclose or suggest selecting a particular advertisement from the set of allowable advertisements to be inserted into the media delivery stream by applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements and comparing weighted characteristics of each of the allowable advertisements, where the weighted characteristics include past usage of a targeted advertisement by the media delivery device, as in claim 24.

The Final Office Action asserts that Knee discloses “when the search produces more than one stored advertisement satisfying the at least one required characteristic, selecting the stored advertisement to be inserted by applying a weighting to at least one characteristic of each of the stored advertisements and comparing at least one weighted characteristic of each stored advertisement.” Final Office Action, p. 9. Applicants respectfully disagree. As explained in detail above, the cited portions of Knee discloses weight factors related to demographic categories of users and to demographic categories of channels or programs. Thus, the cited portions of Knee fail to disclose or suggest applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements.

Additionally, as explained in detail above, Knee discloses that advertisements are associated with preselected values and values of demographic categories for a user. Knee, paragraph [0029]. Values of demographic categories of a user are compared to preselect values for an advertisement to determine whether to display an advertisement to the user. Knee,

paragraph [0032]. Thus, contrary to the assertion of the Final Office Action, Knee does not teach comparing values to a benchmark, but rather comparing values to a threshold where advertisements that satisfy the threshold are displayed and advertisements that do not satisfy the threshold are not displayed. However, the cited portions of Knee fail to disclose comparing two advertisements that both satisfy the threshold. Accordingly, the cited portions of Knee fail to disclose or suggest selecting a particular advertisement from the set of allowable advertisements to be inserted into the media delivery stream by applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements and comparing weighted characteristics of each of the allowable advertisements, where the weighted characteristics include past usage of a targeted advertisement by the media delivery device, as in claim 24.

In contrast to claim 24, Ficco teaches that an ad selection factor may be a number that designates a particular ad segment stored in memory, or the ad selection factor may include multiple components each of which correspond to a particular category of consumers and has a numerical value rating the recipient within each category. Ficco, paragraph [0043]. Thus, as explained in greater detail above, the cited portions of Ficco fail to disclose or suggest applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements and comparing weighted characteristics of each of the allowable advertisements, where the weighted characteristic includes past usage of a targeted advertisement by the media delivery device, as in claim 24.

Therefore, the cited portions of Zigmond, Knee and Ficco, individually or in combination, fail to disclose or suggest at least one element of claim 24. Hence, claim 24 is allowable. Claim 31 depends from claim 24. Accordingly, claim 31 is also allowable, at least by virtue of its dependence from claim 24.

### **Claims 32 and 33 are Allowable**

The Office has rejected claims 32 and 33, under 35 U.S.C. §103(a), as being unpatentable over Zigmond, Knee, and Ficco in view of U.S. Patent No. 6,078,412 (“Fuse”). Applicants respectfully traverse the rejections.

Claim 32 depends from claim 1. As described above, the cited portions of Zigmond, Knee, and Ficco, individually or in combination, do not disclose or suggest the specific

combination of claim 1. The cited portions of Fuse fail to disclose or suggest the elements of claim 1 that are not disclosed by the cited portions of Zigmond, Knee, and Ficco. In contrast to claim 1, Fuse discloses a system for simultaneously optically transmitting a plurality of digital modulation signals using an analog SCM transmission technique. The cited portions of Fuse fail to disclose or suggest receiving a signal at the media delivery device authorizing insertion of an advertisement into the media delivery stream during broadcast media programming, where the signal includes selection data specifying an allowable type of the advertisement that is authorized to be inserted into the media delivery stream, as in claim 1. The cited portions of Fuse fail to disclose or suggest identifying a set of allowable advertisements from among the plurality of targeted advertisements by searching the data representing the set of characteristics associated with each of the plurality of targeted advertisements using the selection data, where the set of allowable advertisements includes advertisements that are of the allowable type, as in claim 1. The cited portions of Fuse fail to disclose or suggest selecting a particular advertisement from the set of allowable advertisements to be inserted into the media delivery stream by applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements and comparing the at least one weighted characteristics of each of the allowable advertisements, where the at least one weighted characteristic includes past usage of a targeted advertisement by the media delivery device, as in claim 1.

Further, Applicants respectfully submit that the cited portions of Fuse disclose nothing whatsoever regarding advertisements or selecting advertisements. Accordingly, one of ordinary skill in the art to which Zigmond, Knee and Ficco apply would have not reason or motivation to look to Fuse. Likewise, one of ordinary skill in the art to which the present application applies would have not reason or motivation to look to Fuse. Thus, any combination of references cited to reject claims of the present application that includes Fuse is based on improper hindsight reconstruction.

Therefore, the cited portions of Zigmond, Knee, Ficco and Fuse, individually or in combination, fail to disclose or suggest at least one element of claim 1. Additionally, the combination of Zigmond, Knee, Ficco and Fuse is improper. Hence, claim 1 is allowable and claim 32 is also allowable, at least by virtue of its dependence from claim 1.

Claim 33 depends from claim 24. As described above, the cited portions of Zigmond, Knee, and Ficco, individually or in combination, do not disclose or suggest the specific



combination of claim 24. The cited portions of Fuse fail to disclose or suggest the elements of claim 24 that are not disclosed by the cited portions of Zigmond, Knee, and Ficco. In contrast to claim 24, Fuse discloses a system for simultaneously optically transmitting a plurality of digital modulation signals using an analog SCM transmission technique. The cited portions of Fuse fail to disclose or suggest receiving a signal at the media delivery device authorizing insertion of an advertisement into a media delivery stream during broadcast media programming, where the signal is sent with the broadcast media programming, and where the signal includes selection data specifying an allowable type of the advertisement that is authorized to be inserted into the media delivery stream, as in claim 24. The cited portions of Fuse fail to disclose or suggest identifying a set of allowable advertisements from among the plurality of targeted advertisements by searching the data representing the set of characteristics associated with each of the plurality of targeted advertisements using the selection data, wherein the set of allowable advertisements includes advertisements that are of the allowable type, as in claim 24. The cited portions of Fuse fail to disclose or suggest selecting a particular advertisement from the set of allowable advertisements to be inserted into the media delivery stream by applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements and comparing weighted characteristics of each of the allowable advertisements, where the weighted characteristics include past usage of a targeted advertisement by the media delivery device, as in claim 24.

Further, Applicants respectfully submit that the cited portions of Fuse disclose nothing whatsoever regarding advertisements or selecting advertisements. Accordingly, one of ordinary skill in the art to which Zigmond, Knee and Ficco apply would have not reason or motivation to look to Fuse. Likewise, one of ordinary skill in the art to which the present application applies would have not reason or motivation to look to Fuse. Thus, any combination of references cited to reject claims of the present application that includes Fuse is based on improper hindsight reconstruction.

Therefore, the cited portions of Zigmond, Knee, Ficco and Fuse, individually or in combination, fail to disclose or suggest at least one element of claim 24. Additionally, the combination of Zigmond, Knee, Ficco and Fuse is improper. Hence, claim 24 is allowable and claim 33 is also allowable, at least by virtue of its dependence from claim 24.

Additionally, claims 32 and 33 include additional elements that are not disclosed by the cited portions of Zigmond, Knee, Ficco and Fuse. For example, the cited portions of Zigmond, Knee, Ficco and Fuse fail to disclose or suggest that a set of characteristics associated with each of a plurality of advertisements includes a content type field and where identifying a set of allowable advertisements includes applying a bit mask to the content type field of each of the targeted advertisements to identify allowable advertisements from a hierarchy of categories, where general category types are masked with high order bits and more specific category types are masked with low order bits, as in claims 32 and 33. Accordingly, claims 32 and 33 are allowable for at least this additional reason.

#### **Claims 34-43 are Allowable**

New claims 34-43 have been added. No new matter has been added. Claims 34-43 depend from claim 1, which is allowable for at least the reasons described above. Accordingly, claims 34-43 are allowable at least by virtue of their dependence from claim 1.

#### **Claims 44 and 45 are Allowable**

New claims 44 and 45 have been added. No new matter has been added. The cited portions of Zigmond, Knee, Ficco and Fuse fail to disclose or suggest at least one element of claim 44. For example, the cited portions of Zigmond, Knee, Ficco and Fuse fail to disclose or suggest a processor that detects a signal authorizing insertion of an advertisement into a media delivery stream during broadcast media programming, where the signal is sent with the broadcast media programming, and where the signal includes selection data specifying an allowable type of the advertisement that is authorized to be inserted into the media delivery stream, as in claim 44. Further, the cited portions of Zigmond, Knee, Ficco and Fuse fail to disclose or suggest a processor that identifies a set of allowable advertisements from among the plurality of targeted advertisements by searching the data representing the set of characteristics associated with each of the plurality of targeted advertisements using the selection data, where the set of allowable advertisements include advertisements that are of the allowable type, as in claim 44. Additionally, the cited portions of Zigmond, Knee, Ficco and Fuse fail to disclose or suggest a processor that selects a particular advertisement from the set of allowable advertisements to be inserted into the media delivery stream by applying a weighting to at least one characteristic of

each of the allowable advertisements of the set of allowable advertisements and comparing weighted characteristics of each of the allowable advertisements, where the weighted characteristics include past usage of a targeted advertisement by the media delivery device, as in claim 44. Accordingly, the cited portions of Zigmond, Knee, Ficco and Fuse, individually or in combination, fail to disclose or suggest at least one element of claim 44. Hence, claim 44 is allowable and claim 45 is also allowable, at least by virtue of its dependence from claim 44.

### **CONCLUSION**

Applicants have pointed out specific features of the claims not disclosed, suggested, or rendered obvious by the cited portions of the cited references as applied in the Final Office Action. Accordingly, Applicants respectfully request reconsideration and withdrawal of each of the rejections, as well as an indication of the allowability of each of the pending claims.


Any changes to the claims in this response, which have not been specifically noted to overcome a rejection based upon the cited art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

The Examiner is invited to contact the undersigned attorney at the telephone number listed below if such a call would in any way facilitate allowance of this application.

The Commissioner is hereby authorized to charge any fees, which may be required, or credit any overpayment, to Deposit Account Number 50-2469.

9-24-2009  
Date

Respectfully submitted,

  
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